




TO: Workforce Development Board Directors
WorkOne Operators
DWD Regional Directors 

FROM: Regina Ashley, Associate Chief Operations Officer for Policy
Indiana Department of Workforce Development

DATE: June 8, 2015

SUBJECT: WIOA (181)-P1
Workforce Innovation and Opportunity Act Participant Drug Screening

Purpose

The purpose of this policy is to provide guidance to local workforce development boards and their operators regarding mandatory drug screening for Workforce Innovation and Opportunity Act (WIOA) training-level participants. The policy has been updated to: 1) change references to WIOA; 2) include youth 18 and older; 3) include WorkINdiana participants; 4) change the time period for initial sanctioning from 90 to 60 days to better align with programmatic exit requirements; and 5) add a confidentiality waiver to the Disclosure Form.

Rescission

DWD Policy 2010-22, Change 1 (rescission will be effective June 30, 2015)

References

Workforce Innovation and Opportunity Act, Section 181(f) and DWD Policy 2012-10

Content

All participants that enter into training-level services (as defined below) funded by any of the following programs will be required to successfully pass a drug screen prior to being enrolled in training:

- WIOA Title I Adult, Dislocated Worker, and Youth (18 and older)
- WIOA Title I Rapid Response Training
- National Emergency Grants (NEG), if any
- WorkINdiana

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An Economic Development Partner

The term “training-level services” consists of:

- 1) Individual Training Accounts provided to participants enrolled in WIOA-training level activities at eligible training providers and programs included on the State’s Eligible Training Provider List
- 2) On-the-Job Training, defined in WIOA Section 3- Definitions (44).

DWD continues its contract with a drug screening laboratory to provide drug screening to those participants that require a drug screen and to review and certify the results of the drug screens. DWD will be responsible for all costs of the drug screens covered by this policy, with no charges being passed on to participants or local WorkOne center operators.

The following controlled substances will be screened:

- Marijuana
- Cocaine
- Opiates
- Amphetamines/Methamphetamines
- Phencyclidine

Participants must only test once throughout their period of participation in training, and a negative/pass drug screen result will be valid until the participant exits integrated WorkOne services. For example, if a participant is in-school studying for an associate degree and will be issued multiple training vouchers (ITAs) throughout his/her course of study, he/she will only be required to take and pass one drug screen. However, if a participant exits the integrated WorkOne system and re-enrolls, he/she must take and pass an additional drug screen.

SPECIAL EXEMPTION 1: Any participant enrolled in On-the-Job Training (OJT) provided by an employer where the passing of a pre-employment drug screen is a condition of employment is exempt from taking a WorkOne-funded drug screen, provided that the pre-employment drug screen provided by the employer tests the participant for at least the same controlled substances required by this policy. The employer-mandated drug screen must have been completed within the previous 30 calendar days from the start date of the WIOA funded OJT in order to be acceptable for this exemption.

In order to document that this exemption is applied, WorkOne staff should receive a written attestation from the potential OJT employer indicating that a pre-employment drug screen is a condition of employment. WorkOne staff should keep this written attestation on file with the OJT agreement. Additionally, when applying this exemption to a participant, WorkOne staff must enter a case note that indicates that the participant is exempted from the drug screening policy because the employer requires a pre-employment drug screen.

SPECIAL EXEMPTION 2: Any participant enrolled in an Individual Training Account (ITA) where the passing of a drug screen is a condition of entering the training program is exempt from taking a WorkOne-funded drug screen, provided that the drug screen provided by the training institution tests the participant for at least the same controlled substances required by this policy. The mandated drug screen must have been completed within the previous 30 calendar days from the start date of the training funded by the ITA in order to be acceptable for this exemption.

WorkOne staff must enter a case note that indicates that the participant is exempted from the drug screening policy because the training institution requires a pre-employment drug screen.

Participants who test positive shall be sanctioned, or suspended, from receiving WIOA-funded training-level services for a period of: 1) sixty (60) calendar days following the first positive drug screen; or 2) one calendar year following the second positive drug screen. All participants have the right to appeal the results of a drug screen administered for the purposes of providing WIOA, NEG, WorkINdiana, or Rapid Response-funded services. Any client that wishes to appeal the results of a drug screen must do so in writing within thirty (30) calendar days of receipt of drug screen results.

Effective Date

July 1, 2015

Ending Date

Upon rescission

Contact for Questions

policy@dwd.in.gov

Action

Drug Screening Operational Procedures

When a WorkOne representative makes the determination to send a participant to approved training funded by one of the above named programs, he/she must follow the procedures outlined below.

STEP 1 – Training Referral

WorkOne staff shall:

- Inform participant of the drug screening requirement.
- Not discuss nor attempt to answer any questions regarding participant usage of prescription medications; all questions of this type shall be referred to the testing facility following completion of the drug screen;
 - 1) Inform participant that he/she should be prepared to provide any information on prescription medications he/she is taking with the testing facility after the participant completes the drug screen;

- Inform the participant that any information shared with the testing facility will be kept confidential and will not be shared with WorkOne staff or DWD staff except for the participant's drug screening results.

STEP 2 – Disclosure Form Review

Review the Disclosure Form (Attachment A) with the participant and obtain the participant's signature.

- WorkOne staff shall review the following key points with the participant:
 - 2) Drug screen must be completed by the close of business the following business day;
 - 3) Government-issued photo identification must be presented at drug screening facility;
 - 4) Participant is solely responsible for returning to WorkOne office after receiving drug screen results certificate (WorkOne office will not receive results from the testing facility);
 - 5) Participants who fail the drug screen will be sanctioned from receiving training in accordance with the schedule of sanctions covered in this policy;
 - 6) Appeal procedures available.
- After participant signs and initials the Disclosure Form, WorkOne staff shall make a copy of the Form, put it in the participant's file and give a copy to the participant.

STEP 3 – Frequently Asked Questions Review.

Review the Frequently Asked Questions sheet (Attachment B) with participant and give him/her a copy.

STEP 4 – Complete the Drug Test Authorization Form

- WorkOne staff shall complete the Drug Test Authorization Form (Attachment C) with the participant and direct him/her to the nearest authorized drug screening facility. WorkOne staff shall give the participant the list of Regional Drug Testing Sites for the specific region (that also includes substance abuse referral information).
- To ensure equitable access to drug screening facilities, the contracted drug screening laboratory has established a network of drug screening facilities that are located close to all WorkOne offices throughout the State.
- WorkOne participants covered by this policy may only complete drug screens at a drug screening facility authorized by the contracted drug screening laboratory.

The Participant should have the following documents upon his/her completion of STEPS 1-4:

- Disclosure Form signed by the participant;
- Frequently Asked Questions sheet;
- Drug Test Authorization Form completed by WorkOne staff and participant; and
- Sheet with Regional Drug Testing Site locations and hours and substance abuse referral information.

STEP 5 – Case Notation

WorkOne staff shall make a case notation that the participant has been referred for pre-training drug screen by entering the following case note:

“Drug Test Authorization Form given to (Name) on MM/DD/YYYY”

Drug Screen Results

The drug screening contractor will inform the participant of drug screen results via US Postal Service.

There are four possible drug screen results:

- Negative / PASS
- Dilute Negative
- Positive – Verified / FAIL
- Refusal to Test

Procedures for Negative / PASS result or Dilute Negative Result

1. Participant returns to WorkOne office and presents drug screen results certificate to WorkOne staff;
2. WorkOne staff shall make a copy of results certificate and place it in the participant’s file;
3. WorkOne staff shall enter the following case note in the participant’s electronic case file:

“(Name of WorkOne staff) viewed drug screen results certificate for participant.
Participant can proceed with training plan.”
4. WorkOne staff shall proceed to enroll the participant into approved training.

Procedures for Positive – Verified / FAIL result

1. Participant returns to WorkOne office and presents drug screen results certificate to WorkOne staff;
2. WorkOne staff must make a copy of the results certificate and place it in the participant’s file;

IMPORTANT: The controlled substance listed on the results certificate citing the cause for the drug screen failure must be completely marked out before WorkOne staff places results certificate in the participant’s file.

3. WorkOne staff must review the Drug Screen Appeals process contained within this policy with the participant;
4. WorkOne staff must review the Sanctions contained within this policy with the participant;
5. WorkOne staff must review substance abuse referral information contained on the Regional Drug Testing Site Locations form;

6. WorkOne staff shall enter the following case note in the participant's electronic case file:

“(Name of WorkOne staff - at phone number and e-mail address) viewed drug screen results certificate for the participant. Participant cannot proceed with training plan. Participant was provided with appeal rights, sanction information, and information on substance abuse counseling. Participant is eligible for reinstatement to WIOA program on or after MM/DD/YYYY, and may complete another drug screen at that time.”

NOTE: All results that are considered to be positive are first verified by the contracted drug screening laboratory's Medical Review Officer (MRO). The MRO is charged with contacting all individuals who test positive to confirm that the positive test was not caused by legally-prescribed medications.

Procedures for Refusal to Test

If the participant refuses to submit to testing, WorkOne staff shall:

1. Review the Drug Screen Appeals process contained within this policy with the participant;
2. Review the Sanctions contained within this policy with the participant
3. Review substance abuse referral information contained on the Regional Drug Testing Site Locations form;
4. Enter the following case note in the participant's electronic case file:

“(Name of Participant) refused to complete mandatory drug screen. Participant was provided with sanction information and information on substance abuse counseling. Participant is eligible for reinstatement to WIOA program on or after MM/DD/YY, and may complete a drug screen at that time.”

Procedure for Use When Participant Does Not Return to WorkOne Office with Drug Screen Results:

1. The contracted drug screening laboratory will not supply drug screening results directly to local WorkOne staff;
2. If the participant does not return to the WorkOne office with drug screen results, WorkOne staff will be responsible for following up with the participant to confirm participant completed drug screen;
3. If the participant indicates that he/she completed the drug screen, WorkOne staff should ask the participant to return to the WorkOne office with the drug screen results certificate;
4. If the participant indicates that he/she completed the drug screen, but that he/she lost or never received the results certificate, WorkOne staff should follow the procedure listed below.

Procedure for Obtaining Drug Screen Results Certificate:

If a participant indicates that he/she completed the drug screen, but that he/she lost or never received the results certificate:

WorkOne staff should send an email to DrugScreenResults@DWD.in.gov requesting the results of the drug screen; the following information is required within the email message:

- Full name of Participant;
 - Date of drug screen; and
 - Last four digits of participant's Social Security Number.
1. WorkOne staff will receive a response from DWD indicating which of the four results applies to the participant, within one business day.
 2. WorkOne staff shall place a copy of the email in the participant's file.

Sanctions for Testing Positive for Controlled Substances

Following the authorities granted to the State by WIOA Section 181(f), the following sanctions will be imposed upon WIOA participants that test positive for controlled substances:

- Upon the first positive drug screen, the participant will be sanctioned from receiving any WIOA, NEG, WorkINDiana, or Rapid Response-funded training-level services for a period of sixty (60) calendar days from the date of the positive drug screen.
- Upon the second positive drug screen, the participant will be sanctioned from receiving any WIOA, NEG, WorkINDiana, or Rapid Response-funded training-level services for a period of one calendar year from the date of the positive drug screen.

The participant is eligible for reinstatement to WIOA training program following the period of sanctioning if he/she passes another drug screen at that time.

Participant Appeal Rights

All participants have the right to appeal the results of a drug screen administered under this policy. Any client that wishes to appeal the results of a drug screen must do so in writing within thirty (30) calendar days of receipt of drug screen results, by submitting a signed and dated appeal letter to the following:

State Equal Opportunity (EO) Officer
Indiana Department of Workforce Development
10 North Senate Avenue, Room SE-203
Indianapolis, IN 46204

Participants should include the following information within the appeal letter:

- Date and Location of Drug Screen
- Copy of Drug Screen Results Certificate
- Basis for appeal

DWD will assign an administrative law judge to review the appeal, conduct a hearing as appropriate, and determine whether results of drug screen were valid and whether participant should be removed from sanction and allowed to receive training under this policy. If there is a hearing, the administrative law judge will provide all parties with information on the final determination.

WIOA (181)-P1

Workforce Innovation and Opportunity Act Participant Drug Screening

June 8, 2015

Page 8 of 8

Attachments

Attachment A – Disclosure Form

Attachment B – Frequently Asked Questions

Attachment C – Drug Test Authorization Form



ATTACHMENT A

Disclosure Form - WorkOne Drug Testing Policy

I, the undersigned, understand that I must be drug-free to receive Workforce Investment Act (WIOA) Title I funds to support my third party training program. To that end, I understand that within one business day, I must submit to a five-panel drug screen at a testing site specified by the WorkOne Office.

I also understand that I must present a government issued photo ID at the time of testing.

I also understand I will not receive any training until I return to the WorkOne office with the results of the drug screen in the form of a certificate sent to me by the Indiana Department of Workforce Development (DWD)'s vendor, Nationwide Medical Review.

I hereby authorize DWD and WorkOne staff to utilize my testing results to determine programmatic eligibility and share that eligibility status with prospective employers and training providers, as applicable. I understand that this authorization constitutes a waiver of my right to confidentiality for my testing result information to be released as described above. I hereby release and hold harmless DWD and its WorkOne staff from any and all liability of every nature and kind pertaining to furnishing of this information.

Sanctions for Testing Positive for Controlled Substances

I understand that if I test positive for any controlled substances, I will be sanctioned from receiving WIOA Title I-funded training through the WorkOne system for the following periods:

- Upon the first positive drug screen, I understand I will be sanctioned from receiving any WIOA or Rapid Response-funded training-level services for a period of sixty (60) calendar days from the date of the positive drug screen.
- Upon the second positive drug screen, I understand I will be sanctioned from receiving any WIOA, NEG, or Rapid Response-funded training-level services for a period of one calendar year from the date of the positive drug screen.
- I understand I am eligible for reinstatement to WIOA training program following the period of sanctioning, and may complete another drug screen at that time.

Appeal Rights

I understand I have the right to appeal the results of the drug screen by submitting an appeal in writing within thirty (30) calendar days of a positive test to the following address:

Equal Opportunity Officer
Indiana Department of Workforce Development
10 North Senate Avenue, Room 304
Indianapolis, IN 46204

I understand my appeal letter should include the following information:

- Date and Location of Drug Screen
- Copy of Drug Screen Results Certificate
- Basis for Appeal

Participant Printed Name

Participant Signature

Date

Witness Printed Name (WorkOne Staff)

Witness Signature (WorkOne Staff)

Date

Attachment B



Frequently Asked Questions about Drug Testing for Hoosiers Enrolling in Training Programs

The Department of Workforce Development (DWD) requires mandatory drug testing for clients who enroll in outside training paid for by the Workforce Innovation and Opportunity Act (WIOA) of 2014.

Who will be tested?

All clients who receive outside training paid for by the Workforce Innovation and Opportunity Act (WIOA) will be tested. This policy includes on-the-job and individual training plans which allow Hoosiers to go back to school. This policy does not apply to in-office WorkOne services such as career counseling, resume writing, or outside training provided by Trade Adjustment Assistance (TAA) and Adult Basic Education (ABE).

Are the results confidential?

The results are confidential. The drug test provider will send the results directly to the client.

What is the process for drug testing?

Prior to enrollment in training, a WorkOne staff member will explain the drug testing policy to the client. The staff member will provide the client with a list of approved drug testing facilities and a Drug Test Authorization Form. Clients have until close of the next business day to take the Drug Test Authorization Form to one of the approved testing sites. Screening will be completed by urinalysis.

The results of the drug test will be processed and mailed to the client. Clients will receive a certificate that clearly indicates the results of the test. To receive outside training, clients must bring the certificate, indicating a negative result to the WorkOne as soon as possible, but in any event it will be valid for 90 days.

Where do clients go to take a drug test?

WorkOne will provide clients with a list of approved local drug testing locations.

How long do clients have to complete a drug test?

All drug tests must be completed by the close of the next business day.

What do clients need to bring to the drug testing facility?

Clients must bring the signed Drug Test Authorization Form (provided by WorkOne) and a valid, government-issued photo ID.

What happens to clients taking legally-prescribed medications?

Clients taking legally-prescribed prescriptions should be prepared to discuss any medications with the drug test provider. Clients who test positive may be contacted by the drug test provider to determine if the positive result may have been caused by a legally-prescribed medication. Any discussions between the drug testing staff and the client will remain confidential. Clients should not discuss medications with WorkOne staff.

What kind of drug test does WorkOne use?

Drug screening is conducted through urinalysis. The screening tests for five substances:

1. Marijuana
2. Cocaine
3. Opiates
4. Amphetamines/Methamphetamines
5. Phencyclidine (PCP)

How do clients get the results?

The drug test provider will mail the results via the U.S. Postal Service.

What are the drug test results?

- Negative - the client tested negative for controlled substances and will be processed for training as appropriate.
- Positive – the client tested positive for controlled substances and will not be processed for training as this time.

Will clients who test positive be provided with information on substance abuse counseling?

Yes, all clients will receive information on substance abuse counseling.

Can clients appeal the results of a drug test?

Yes, clients may appeal a positive drug test. All appeals must be submitted in writing within 30 calendar days of receiving the results. Clients will receive information on the appeals process prior to the drug test.

What if a client refuses to take the drug test?

Clients who refuse to take a drug test will not be processed for training.

What happens to applicants who test positive for drugs?

Clients who test positive cannot enroll in a training program for 60 days. If that individual passes a drug test after 60 days, he/she will be able to enroll. A second positive test will result in a one year exclusion from training.

Who pays for the drug test?

WorkOne pays for the drug test using Workforce Innovation and Opportunity Act (WIOA) funds.

Will this policy affect unemployment insurance benefits?

No, individuals who test positive will not be denied unemployment insurance benefits, but they will not be eligible for outside training under the Workforce Innovation and Opportunity Act (WIOA).

Will clients who submit to a drug test for on-the-job training have to take the employer drug test too?

It is up to the employer to decide whether the WorkOne drug test is adequate or if another test given by the employer is required. WorkOne will share the results of the drug test with an employer only upon the request of the client.

How do I know that this policy does not break any laws or violate my rights?

The Workforce Innovation and Opportunity Act (WIOA) of 2014 provides states with the authority to test participants of WIOA-funded activities for controlled substances and deny services to those who test positive.

ATTACHMENT C



WORKONE DRUG TEST AUTHORIZATION FORM

State Form
INDIANA DEPARTMENT OF WORKFORCE DEVELOPMENT

INDIANA DEPARTMENT OF
WORKFORCE DEVELOPMENT
10 N. Senate Avenue, Indianapolis, IN 46204
Telephone: 1-800-891-6499
Website: www.in.gov/dwd

This authorization is valid until the close of the next business day. Please see the date below.

A PHOTO ID MUST BE PRESENTED WITH THIS FORM AT THE DRUG TESTING FACILITY

***** Attention drug testing facility staff - Fax this form with the CCF to the MRO Office: 317-568-0849 *****

Customer Name		Date	
		/ /	
Customer Address <i>(All results will be mailed unless otherwise noted down below)</i>			
Street Address			
City		State	Zip Code
Fax Number <i>(If results are to be sent by fax)</i>		Results Will be Mailed <input type="checkbox"/> Results Will be Faxed <input type="checkbox"/>	
()			

Authorized By <i>(WorkOne Representative)</i>	
Printed Name	
Signature	Date / /
WorkOne Location:	

Drug test **MUST** be completed by close of the next business day. Not valid after _____

***** Attention drug testing facility staff- Fax this form with the CCF to the MRO Office: 317-568-0849 *****